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10/697,472	10/29/2003	Todd A. Elson	006383.00005	7429
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FRANK J CATALANO FRANK J CATALANO, P.C. 100 WEST 5TH ST., 10TH FLOOR TULSA, OK 74103-4990			EXAMINER SWINEHART, EDWIN L	
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/697,472
Filing Date: October 29, 2003
Appellant(s): ELSON, TODD A.

MAILED

JAN 09 2006

GROUP 3600

Frank J. Catalano
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 10/28/2005 appealing from the Office action mailed 6/2/2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,855,180	Masters	1-1999
6,092,961	Kilgore	7-2000

3,058,756

Holsclaw

10-1962

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-6 and 13 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Masters in view of Kilgore.

Masters discloses the field of the invention, including a floating dock with valley and a pair of ridges as claimed. Masters fails to disclose wheels mounted within pockets within the ridges as claimed.

Kilgore teaches ridges for supporting a watercraft. Each ridge includes pockets with wheels mounted therein upon bearings. The wheels list inwardly as claimed. Since the wheels rotate upon shafts, a bearing, even if of the "plain" type will be inherent.

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide Masters with wheels as taught by Kilgore.

Such a combination would have been desirable at the time the invention was made so as to provide ease in loading, and hull protection.

The degree of protrusion of the roller(s) above the edge is considered to have been an obvious design consideration, well within the level of skill of the ordinary routineer working in the art at the time of the invention, providing no unexpected results.

Claims 12 and 14 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Masters in view of Kilgore as applied to claim 1 above, and further in view of Holsclaw.

Masters fails to disclose the angle of the hull contacting surface(s), however adjusting of such surfaces is notoriously old and well known in the art, such that such surfaces/rollers align themselves with the surface of the hull, as is evidenced by Holsclaw, who provides roller assemblies which may assume an appropriate angular relationship for contact with a boat hull.

It would have been obvious to one of ordinary skill in the art at the time of the invention to permit adjustability of the rollers to permit alignment to the hull of Masters as taught by Holsclaw.

Such a combination would have been desirable at the time the invention was made so as to provide for adjustability to conform with various hull shapes, the of such hull portions being an obvious choice to anyone operating same.

(10) Response to Argument

Appellant argues that Masters fails to disclose wheels positioned within the ridges.

The examiner agrees with this argument, and such is in agreement with the examiner's statement within the rejection. Such is the reason the secondary reference to Kilgore has been applied.

Appellant argues that Kilgore's rails are not ridges, and that rails and ridges are not synonymous, and further argues hindsight reconstruction. Appellant argues that the rails of Kilgore do not support the watercraft, as they never come into contact with the hull.

In response, the rails of Kilgore do not contact the hull, just as in the present invention, as the hull is supported by the wheels, and the argument that the rails of Kilgore do not support the hull is not really understood. Such rails support the rollers which support the hull just as in the present invention, therefore the rails of Kilgore support the hull.

In this instance, there is no hindsight reconstruction of the claimed invention. One of ordinary skill in the art would recognize the applicability of the teachings of Kilgore to the dock of Masters.

Appellant argues that Kilgore fails to disclose an inward list of the wheels, and cites Col. 4, lines 5-6 of Kilgore.

This argument is not persuasive, as “essentially” broadens “vertically” such that a purely vertical orientation is not required, and Figure 2 of Kilgore clearly illustrates an inward list of the rails and wheels.

Appellant further argues that the circumferential plane of the wheels of Kilgore is rectilinear with the rails, and the claims require of cooperation of axle/bearing and pocket to “cause” the listing of the wheels.

The examiner does not agree. The claims require “said axle having end bearing portions co-operable with seats in said pockets to list said circumferential plane toward the valley”. This is not a positive recitation of such axle and seats causing a list in relation to the rail/ridge toward the valley. The mere fact that such axle/bearings support the wheel on an inwardly listed rail meets the claim limitation.

Appellant argues that the claimed protrusion amount of 5/16" is not an obvious design consideration, as it is a critical dimension permitting the hull to both roll on the wheels as well as rest upon the ridges.

The examiner does not agree. The specification does not support this argument by appellant. The specification only sets forth criticality for a dimension of 3/16", as performing the argued function of dual support. No such criticality had been set forth for the claimed 5/16" dimension, and therefore it falls into the realm of obvious design consideration.

Appellant argues that the rollers of Holsclaw do not list in the support members or rails 50, and they are not wheels at all due to their wide surface of contact.

In response, the claims do not call for a list in relation to anything but a vertical orientation, and the width of the wheels of Holsclaw in no way detracts from the teaching of adjustability. The width of a wheel does not make it a non-wheel, just a wide wheel.

Appellant argues claim 12 sets forth a fixed list angle, and therefore Holsclaw is not applicable.

Claim 12 recites "said list angle being in the range...". There is nothing in claim 12 which positively recites a fixed angle of list.

Appellant argues that it is the ridges which support the water craft, and not just the wheels, and such is not taught in the combination.

Such fails to define over the combination, as since the ridges support the wheels which support the watercraft, they therefore support the watercraft. Appellant has NOT claimed direct contact of hull and ridges.

Appellant in the conclusion again sets forth the argument that the wheels do not support the watercraft, as such function is performed only by the ridges.

There is nothing in the claims to positively recite such support. No positive recitation of the ridges contacting the hull has been made. The ridges of Masters as modified inherently support the watercraft since they will support the wheels which carry the watercraft. There is nothing in the claim language to define over such an arrangement, and in fact, with appellant only claiming a 5/16" protrusion, it is exactly the same arrangement as claimed, as such a dimension will not permit the hull to contact the ridges.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Ed Swinehart



Conferees:

JM 

LM 